

## REMARKS

Claims 1-4, 6, and 7 are in the case.

Claims 1-7 were rejected under 35 U.S.C. §103(a) as being obvious over Maggioncalda '386 in view of Frank '754 and Wilezek (i.e., applicant's own specification).

This rejection is improper because applicant's own specification is not prior art under 35 U.S.C. 102. Although applicant's application has been published, only published patent applications of *others* can qualify as prior art under Title 35, U.S. Code. Applicant pointed out in the Background section of the specification that recent legislation in Delaware and Missouri permits conversion of an irrevocable trust to a Total Return Unitrust. The PTO is relying on this statement for its position that it would have been obvious to implement a Total Return Trust as part of a financial portfolio when optimizing financial planning for a trust. Applicant's invention is not simply implementing a Total Return Trust as part of a financial portfolio; rather, applicant's method is to systematically calculate whether it is beneficial to trustees and/or beneficiaries of irrevocable trusts to convert such irrevocable trusts to Total Return Trusts. The invention includes evaluation, selecting, determining, calculating, and generating steps. These steps are not disclosed or suggested by any of the prior art references.

Claims 1-4, 6, and 7 were rejected under 35 U.S.C. §103 as being unpatentable over Maggioncalda '386 in view of Frank '754. Although this rejection does not improperly rely on applicant's own specification, claim 5 was not rejected. This ground of rejection has been obviated by the instant incorporation of the limitations of claim 5 into claim 1.

As the Examiner has apparently recognized by not rejecting claim 5, Maggioncalda differs from the invention in that it discloses a method and an apparatus for a user interface for a financial advisory system including a set of input objects and a set of output values. The input

objects include an indication of target retirement age, an indication of a target level of investment risk, and an indication of a retirement income goal. The output values include an indication of the probability of achieving the retirement goal and an indication of the most likely retirement income in current dollars. Maggioncalda has nothing to do with assisting trust beneficiaries and trustees in deciding whether to convert an irrevocable trust to a proposed total return unitrust. Very different considerations and calculation algorithms are required to carry out applicant's objective and solve the problems to which the present invention is directed than those disclosed by Maggioncalda.

Frank teaches an improved investment optimizing system and method for managing of an investment portfolio for retirement or for other short term and long term goals, the portfolio including stocks, mutual funds, trusts, etc. Although trusts are mentioned as recognized and relied on by the Examiner, Frank has nothing whatsoever to do with assisting trust beneficiaries and trustees in deciding whether to convert an irrevocable trust to a proposed total return unitrust.

As pointed out in the prior amendment, neither Maggioncalda, nor Frank, disclose a process for comparing income, principle and expenses of an existing trust and a proposed trust.

Neither Maggioncalda, nor Frank, alone or in combination with one another, suggests or teaches the trust comparison process as presently claimed. Accordingly, the present invention is not obvious over Maggioncalda, in view of Frank.

For these reasons, reconsideration and withdrawal of all grounds of rejection are earnestly solicited.

Respectfully submitted,

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